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Senator William C. Smith
Chair, Senate Committee on Judicial Proceedings
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Remarks of
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Support of: SB 413 – AN ACT concerning Discrimination – Military Status – Prohibition

Testimony

Chairman and honorable committee members, the Department of Defense is grateful for the opportunity to reflect on the policies proposed in Senate Bill 413. Explicitly including military status as a protected class ensures service members and their families are not inappropriately disadvantaged or penalized because of their choice to serve.

I am Christopher Arnold, the Mid-Atlantic Region Liaison at the United States Department of Defense-State Liaison Office, operating under the direction of the Under Secretary of Defense for Personnel and Readiness. Our office works to establish relationships with state leaders across the country who are concerned for troops and their families' welfare by harmonizing state and federal law and regulation on policy problems of national significance. These are identified by the Office of the Secretary of Defense, the Military Departments, and the National Guard Bureau as areas where states can play a crucial role in support our service members and their families as they serve in and transition into and out of the states.

Maryland anti-discrimination statutes provide protections against discrimination in education, employment, housing/real estate, public accommodation, credit/lending, insurance, medical/health services, and human rights/civil right. However, 0% of these statutes include veterans, active-duty military personnel, or military families as a protected class.¹

Researchers have found that forty-six percent of military spouses have experienced job discrimination due to their military affiliation.² Various surveys have found military spouses are

¹ Maryland enacted the Maryland Fair Employment Practices Act (FEPA) in 1959. The FEPA protects individuals from discrimination based on the following protected characteristics: Race, Color, Religion, Ancestry or national origin, Sex, Age, Marital status, Sexual orientation, Gender identity, Disability, Genetic information. Md. Code Ann., State Govt § 20-601.

² Reynolds, B.W. (2019). Survey: Nearly half of military spouses have felt job search discrimination. <https://www.flexjobs.com/blog/post/military-spouse-job-discrimination-survey/>

denied jobs, denied promotions, or excluded from consideration for leadership opportunities based on employers' longevity concerns, endangering the family's financial and food security.

To effectively meet the Department of Defense's goal of ensuring that service members and their families are protected through state laws that protect against bias and discrimination and achieve Governor Moore's ambitious goal of making 2024 the year for the military family in Maryland, the policies contained in Senate Bill 413 would add "military status" to identified protected classes in the Maryland Code. The legislation also clarifies that creating such a protected class would not impair any benefit, privilege or right afforded to individuals with military status on such basis.

Both state and federal laws recognize that our active duty and reserve component service members and veterans deserve special protections that keep them from being inappropriately disadvantaged or penalized because of their choice to serve.³ However, the protections from these federal statutes are not always extended uniformly in every state; and family members, caregivers and survivors under similar restraints and restrictions are rarely included in those protections.⁴

Military family members, caregivers, and survivors are subject to many of the same unique challenges as military and veteran members themselves but are rarely afforded the same protections. It is often overlooked that families endure multiple and frequent deployments, experience moves every couple of years with little control over geographic location or job continuity, care tirelessly for wounded, ill, and injured service-members, or veterans, and spend significant periods apart from their spouses and own support systems.

A recent study by the Department of the Air Force concluded that reassignment requests have increased due to perceived discrimination.⁵ Federal law generally requires service members to exhaust all other administrative remedies prior to bringing a claim.⁶ Survey data has indicated that due to lack of federal recourse, military families have expressed state-level employment

³ There are multiple federal laws that protect service members and their families, including the Uniformed Services Employment and Reemployment Rights Act (USERRA), the Servicemembers' Civil Relief Act (SCRA), and the Americans with Disabilities Act (ADA). USERRA protects servicemember and veteran reemployment rights after work absences due to service; the SCRA postpones or suspends certain financial obligations during deployments; and the ADA provides specific accommodations for both physical injuries and unseen injuries.

⁴ Brannock, M.K., and Bradford, N.A. (2021). Barriers to licensure for military spouse registered nurses. *Journal of Nursing Regulation*, 11(4), 4-14. <https://www.sciencedirect.com/science/article/abs/pii/S2155825620301708>

⁵ Military families report being challenged by lack of equal access to beneficial K-12 education related policies and programs, particularly those with special education needs, which can cause learning gaps, undue delays and financial burdens. Lack of employment accommodations for post-traumatic stress disorder in caregivers and survivors can take both a financial and emotional toll on these individual. When higher security deposits are required by landlords, housing availability becomes scarce or more expensive for military families. Some employers have failed to recognize the unpredictability and short notice of changes in duty stations, causing spouses to be charged large employment contract penalties for failure to remain employed as long as anticipated, or consider geographical separation from their family.

⁶ Steiger, J. (2021). DOL reports little change in USERRA complaints filed in FY 2020 compared to FY 2019. Center for Workplace Compliance.

<https://www.cwc.org/CWC/PublicationPages/Memos.aspx?WebsiteKey=13900549-b20f-4ef2-86be-5f827f0cc83f&hkey=73f86a3a-c35c-458a-806b-a07bbd80767b>

protections are more efficacious at filling current gaps in federal law, an approach that complements these other protections without duplication, and filling gaps where they fall short.⁷

Military affiliation has unfortunately been used as a basis to mask discrimination against otherwise protected classes.⁸ This undermines otherwise effective enforcement mechanisms and the commitment of state institutions to uphold these protections.⁹

State solutions to these challenges offer a framework of support for our uniformed service members, veterans, and their families.¹⁰ Maryland's role in considering such changes recognizes their sacrifices and contribute to their quality-of-life, financial security, and physical and emotional well-being.¹¹

The Department of Defense is grateful for the efforts that the Old Line State has historically made to support our service members and their families. We appreciate the opportunity to opine on the policies articulated in Senate Bill 413 and are especially grateful to the bill sponsor, Senator Dawn Gile, for her leadership and sponsorship of this important legislation. As always, as liaison to the Mid-Atlantic Region, I stand ready to answer whatever questions you may have.

Yours etc.,

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⁷ Barnhill, J. (2021). New Virginia law protects military spouses from employment discrimination. Military Families Magazine. <https://militaryfamilies.com/military-spouses/new-virginia-law-protects-military-spouses-from-employment-discrimination/>

⁸ Wellman, T. E. (2018). Employment discrimination against military spouses: A case for illegality contrary to popular belief and practice. AFL Rev., 79, 207. https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/airfor79§ion=9

⁹ Smith, B. (2022). The employment of the transitioning military and their families. Institute for Emerging Issues. <https://iei.ncsu.edu/2023/05/22/the-employment-of-the-transitioning-military-and-their-families/>

¹⁰ Smith, M. (2023). DOD announces new priorities to improve military family quality of life. National Military Family Association. <https://www.militaryfamily.org/dod-announces-new-priorities-to-improve-military-family-quality-of-life/>

¹¹ <https://statepolicy.militaryonesource.mil/priorities/military-family-anti-discrimination-status>